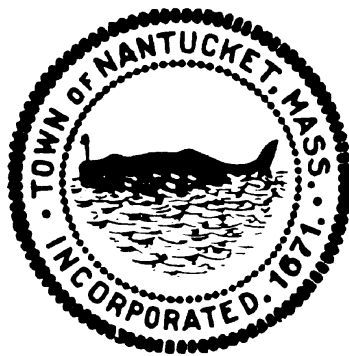


REQUIREMENTS AND GUIDELINES FOR  
MAJOR COMMERCIAL  
DEVELOPMENTS



Town of Nantucket  
Planning Board

Amendments Through October 13, 1987

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## Section I

### Submission Requirements for Major Commercial Developments

Applicants shall provide the following at the time of filing in order to have a submission considered valid:

#### 1. Abutters List

A certified list of the names and addresses of persons who are owners of land abutting the property and owners of land directly opposite the property on any street or way, and owners of land within three hundred (300) feet of the property, all as they appear on the most recent applicable tax list shall be submitted.

In addition, applicants shall also submit a set of gummed mailing labels bearing these names and addresses plus a set of certified mailing materials, i.e., both (1) Receipts for Certified Mail and (2) Domestic Return Receipts, all appropriately and completely prepared for mailing.

#### 2. Filling Fees

- **Special Permits:** A filing fee shall accompany the application in the amount of five (\$0.05) cents per square foot of gross floor area of interior commercial use, including roofed-over storage areas, and five (\$0.05) cents per square foot of outdoor commercial use, including, but not limited to, (1) sand, gravel or topsoil borrow operations and asphalt plants, (2) land used for recreation, and (3) land used for the exterior storage or display of merchandise, equipment or material.
- **Modifications to Previously Granted Special Permits:** A filing fee shall accompany the application in the amount of \$150.00.

#### 3. Engineering Inspection Escrow Deposit

In addition to the filing fee, applications shall be accompanied by a check to be deposited into an Engineering Inspection Escrow Account within the Town Treasury. This amount shall equal ten (\$0.10) cents times the number of linear feet of proposed or reconstructed sewer lines and ways located within and outside of the boundaries of the Major Commercial Development, plus ten (\$0.10) cents per square foot of proposed asphalt or graveled surface parking areas, driveways and aisles. The Engineering Inspection Escrow Funds shall be kept separate from other funds in the Town Treasury, the proceeds of which shall be drawn upon from time to time by the Board to pay for costs associated with the review and inspection of the applicants' required public and site improvements.

#### 4. Plan Submission Requirements for Major Commercial Developments

The applicant shall, at the time of filing, provide seven copies of the plans for a proposed major commercial development, one copy of which has been reduced to fit 8.5" x 11" paper. The plans shall contain the following in order to be considered a valid submission:

##### **A. Site-Inventory and Resource Analysis**

The applicant shall provide a map of the site at a suitable scale showing the following:

1. Existing topography shown at two (2) foot contours.
2. The location of predominant natural features such as ponds, estuaries, beaches, dune areas, wetlands, natural drainage areas, and heavily wooded areas.
3. Areas subject to periodic flooding, as shown on the US Federal Emergency Management Agency's Flood Hazard Maps for Nantucket County.

##### **B. Site Development Plan**

The applicant shall provide a map of the proposed development at a suitable scale showing the following:

1. Lot lines as surveyed with bearings, distances, north point, scale, etc.
2. Abutting streets and intersections, showing rights-of-way lines, and the location of the traveled way indicating type of surfacing.
3. Lot coverage and gross floor area of existing and proposed structures, indicating the uses for each.
4. Interior roadways, driveways and parking areas indicating what type of surfacing and indicating areas to be curbed and what type of curbing to be used.
5. Sidewalks, trails, and bicycle paths, indicating type of surfacing.
6. Storm drainage plan and facilities, including drainage swales and gutters, catch basins and storm sewers, as applicable, certified by a professional engineer to accommodate a five-year rainstorm.
7. Sewage disposal facilities, including on-site, public and pre-treatment facilities, as applicable, and sewage flow design data.
8. Water supply system, both public and on-site, as applicable.
9. Outdoor recreational facilities, including, but not limited to, swimming pools, tennis courts, patios, and terraces.
10. Fencing, indicating type.
11. Outdoor lighting, indicating type.
12. Shoreline protection devices, such as seawalls, revetments, groins, jetties, breakwaters, and bulkheads.
13. Fuel storage.
14. Electrical services, both in-ground and existing overhead.
15. Outdoor signs, type and size.
16. Fire protection.
17. Landscaping and planting proposed on the site including grassed areas and all shrubs and trees located by species.
18. Designated thirty percent (30%) open space area, as required under §139-11(G) of the *Nantucket Code*.
19. Grading plan showing final contour at two (2) foot intervals.

### **C. Detailed Drawings**

The applicant shall submit the following detailed drawings:

1. Typical drawings for all exterior lighting to be installed on the site.
2. Typical cross-section of driveways, access roads, parking areas, sidewalks, bicycle paths and curbing.
3. Typical cross-section of all drainage facilities, including catch basins and storm sewers.
4. Typical cross-section of all sewage facilities.
5. Typical cross-section of all water system components.

### **D. Application Form for Major Commercial Developments**

An application to the Planning Board for a Special Permit shall be submitted along with the information cited above indicating the name of the development, the name and address of the record owner, the developer (if not the record owner of the property), the engineer, and the architect, and the names and addresses of all abutters as they appear on the most recent tax list. A completed copy of the form must be filed by the applicant with the Town Clerk.

## Section II

### Application Consideration and Action

The Board shall have the authority to require construction materials and specifications to conform to those in use in its *Rules and Regulations Governing the Subdivision of Land*, as amended from time to time. In the case of approval of a Special Permit application by action of the Board, and after the expiration of twenty (20) days without notice of appeal to the Superior Court, the Board shall cause to be made upon the plan a written endorsement of its approval. If appeal has been taken, such endorsement shall not be made until after the entry of a final decree of the Court sustaining the approval of such Special Permit. No endorsement shall be made until such time as the applicant has revised the plans as per the Board's stated conditions, if any. Three sets of these revised plans shall be provided by the applicant, one of which shall have been reduced to fit 8.5" X 11 paper. No building permits will be issued until the Building Commission is presented with endorsed plans.

The Planning Board shall, prior to endorsement of a plan requiring the installation of paving, municipal services and/or landscaping, require that the construction and installation of these improvements be secured by a performance guarantee in the form of either (a) a proper bond or (b) a deposit of money or negotiable securities. In either case, the amount of the performance guarantee shall be sufficient in the opinion of the Planning Board to secure performance of the construction and installation of the required improvements and to secure the survival of the landscaping plan plantings for one year from the date of their installation.

## Section III

### Guidelines for Out-of-Town Commercial Development

Nothing could be more damaging to the integrity of Nantucket Island's unique character than to see strip commercial development appear along the main arteries leading into Town. The typical mainland suburban pattern involving a line of stores separated from the road by a sheet of asphalt is not Nantucket. People live on Nantucket, or come here to visit, in part to escape metropolitan shopping center existence. Nantucket must guide out-of-town commercial expansion in a way that promotes a new pattern of commercial development -- a pattern that marks a departure from what is done on the mainland, one that is distinctly Nantucket in flavor. If the Island is successful in this endeavor, the businesses that locate there, and the community at large, will benefit greatly.

The following five points summarize what the Planning Board and Historic District Commission are looking for when they review out-of-town commercial projects.

#### 1. Put the Project's Best Face Forward

On the mainland, highway-oriented shops and services must compete for business in a way that is markedly different from the way it is done on Nantucket. It is a type of merchandising that depends on attracting customers from the highway by using eye-catching signs and by creating the illusion that access and parking are convenient. As a result, signage litters the site and parking becomes the design focus of site layout. Long, low-profile buildings are seen over the tops of cars; minimal landscaping is dwarfed by a massive sheet of asphalt. In short, any human spaces-found in the design are usually afterthoughts which merely connect the parking to the doors of the buildings. This type of design happens on the mainland because business people there feel that the public will not venture into the business without a freestanding sign and parking right out in front of the store.

Nantucket's form of merchandising is very different. Unlike almost everywhere else, people do business with an establishment here because they know about it ahead of time through advertising and word-of-mouth. They do not come because they are lured off the highway with signage and "convenient" parking. Nantucket is still a small community where almost nothing happens unnoticed. But most importantly, it has a captive market. No one is passing through on his way to somewhere else.

Nantucket's unique style of merchandising presents us with a great design opportunity. It allows us to depart from what is typically done in most mainland communities. For Nantucket, the most important element of a commercial development is its buildings. It is not the parking lot. By requiring the siting of buildings toward the front of the site, the community is making the statement that its buildings are a more important part of the Town's fabric than its automobiles. The placement of all or most of the parking toward the rear of the site, hidden from view by buildings and extensive plantings, is a design concept that could not work here were it not for the

community's unique style of merchandising.

## **2. Put Signage on Buildings**

Nantucket's unique merchandising style also affects the need for on-site advertising signs. There is simply no need for every business to have its own freestanding business sign out on the road. If Nantucket were to allow them, the community would end up with a forest of freestanding signs down every commercially zoned street. Signs would begin to compete with each other by way of siting, size and ornateness. If this were to happen, all out-of-town businesses would end up losing. But most of all, the community will have lost another major battle in its attempt to be different from the mainland.

If Nantucket is serious about marking a departure from mainland development patterns, it simply must not permit freestanding business signs. Business identification signs should be attached to the building. In larger projects in which some buildings may not be readily viewed from the street, a two-posted low profile (less than thirty inches above ground) street address sign for the entire project may be permitted. In some cases involving projects with many buildings, it may be permissible to erect one modest free-standing directory sign with a map showing the location of businesses, but only if the sign cannot be seen except by pedestrians as they walk into the site from the rear parking area.

## **3. Use Open Space and Landscaping to Best Advantage**

Nantucket is a stark landscape. Large trees and interesting topography are absent. Consequently, the location and planting of open areas is a much more important consideration here than on the mainland. Developers should realize early in the planning process that the planting of mature trees, and the use of hedging and vegetated ground cover, should be a major capital line item in any commercial project budget. Nantucket is serious about requiring landscaping. And occupancy permits will not be issued without the planting plan having been implemented in full.

Project planners should consult with local landscaping experts to determine the species that will survive the Island's droughty soils, wind and salt spray. Piped irrigation systems are a necessity in most cases, especially where brick or concrete surfaces surround trees and shrubs.

The use of vegetated berms may be a good idea to help screen parking areas. Densely planted compact shrubs and hedging, in the style of Siasconset, should be used to mask and soften parking lots in certain instances, fencing may be indicated for the same purpose, but should rarely be used without plantings to soften the harsh lines of the fence. Of course, hedging and fence heights at vehicle exits should not exceed the height of a car window in order not to obstruct the view of drivers.

Open space and planting should also be used to buffer adjacent non-commercial neighborhoods.



In other words, in certain instances, the Town may require greater than minimum setbacks and more extensive planting, berming and fencing where an adjacent use, or potential adjacent use, needs to be protected.

Open space, and the walkways passing through it, should be laid out in a way that creates a small-scale feeling. A project should contain one or a number of small pedestrian focus areas where patrons can sit outdoors. Viewed from the street, open areas and walkways should appear inviting and should serve to draw in the public's interest.

(For very large commercial projects another open space concept may be advisable. It may be a better idea to provide a large open space buffer and berm system along the front of the site, setting back the entire project so as not to be easily seen from the main road at all.)

#### **4. Break Up Buildings: Small Is Beautiful**

Whenever people think about Nantucket, usually the first notion that comes to mind is its small scale. With few exceptions, the Island's built environment is noted for its lack of very large structures. In line with this, Nantucket would prefer to see buildings in a commercial development broken up into smaller masses rather than see large monolithic structures. The Town is also looking for the siting of the lower buildings (story and a half) located near the front of the site, with any higher buildings sited behind them.

Buildings should relate to each other architecturally from the point of view of massing, siting and the treatment of roof lines.

#### **5. Consolidate Access**

The Town is trying to minimize the number of traffic interruptions on its principal commercial streets. Driveways should be kept to an absolute minimum. In fact, it will be extremely rare if more than one driveway will be permitted for any single project. In certain instances, the Town may require that access be consolidated with that of an abutting property owner. Access or service roads located near the back of the property may be required in order to link up one project's parking facility with another. In this way, it will be possible for shoppers to get to the next area without necessarily having to come out to the main road. Traffic control signage and pavement markings will be of concern to the Town in reviewing projects. Roadway sidewalks and/or bike paths will be required.

## Section IV Inspection of Improvements

### 1. Engineering Inspection Escrow Funds

Prior to the granting of a Special Permit for a Major Commercial Development, the applicant shall be required to deposit with the Treasurer of the Town an amount equal to ten (\$0.10) cents times the number of linear feet of proposed or reconstructed sewer lines and ways located within and outside of the boundaries of the Major Commercial Development plus ten (\$0.10) cents per square foot of proposed asphalt or gravel surfaced parking areas, driveways and aisles.

The Planning Board shall direct the Town Treasurer to expend such funds to pay for all reasonable design review, construction inspection services and modification design reviews by its engineer or other professional persons required to assist the Planning Board in its determination as to the adequacy of the Major Commercial Development with regard to Section 139-9B(4) of the *Nantucket Code* and as to the adequacy of the construction and installation of public improvements and any design modifications to the plan and changes made in the field.

However, no such payment shall be directed until fourteen (14) days after a photocopy of the bill purporting to represent charges for such services and review has been sent, by certified mail, to the applicant. The balance of this account shall at no time be less than one-half the initial deposit, and the applicant shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial deposit upon notice from the Board, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or near one-half the initial deposit. The account shall be closed and the remaining funds returned to the applicant when, in the opinion of the Board, all work required by the approved plan and special permit, any conditions placed upon such approval, and any subsequently approved modifications and all required inspections have been completed.

The failure of the applicant to make the initial deposit, and to maintain the account in accordance with this section, shall be grounds for either:

1. the disapproval of a Special Permit for a Major Commercial Development;
2. cause a stop order to be issued by the Building Inspector, under the provisions of Section 139-25 of the *Nantucket Code*; or
3. the revocation of an occupancy permit.

The full cost of any special non-scheduled inspections deemed necessary by the failure of construction to proceed entirely in accordance with the approved plans, or as the result of any question concerning the accuracy of any data provided by the applicant at any time, shall be borne by the applicant.

In the event the Planning Board denies approval of a plan for a Major Commercial Development, or an application is voluntarily withdrawn, the account shall be closed and the unexpended funds returned to the applicant within 21 days from the date the Major Commercial Development was

denied approval or withdrawn.

The Planning Board in its discretion may waive or refund the inspection fee in whole or in part to the extent the Board determines that professional or other services were not required in consideration of the Major Commercial Development application.

## **2. General Procedures**

The Board may employ a Registered Professional Engineer to act as its agent in the inspection of work to ensure compliance with the Town's design specifications for the construction and installation of public improvements and utilities and to report to the Board his/her recommendations as to approval or disapproval of the work. Such Engineer will make certain inspections as prescribed herein in order to check the adequacy of the work at various stages prior to such being covered by subsequent work. The Board, its engineer, and such other persons as the Board may designate, shall have the right to inspect the work at any time. The applicant shall at all times provide safe and convenient access to all parts of the work for inspection by the Board or its authorized agents.

All work which has been disapproved or is not acceptable to the Board shall be removed and replaced or otherwise corrected to the point of complying with the requirements of the Board for acceptance. Any work which has been covered by subsequent work prior to acceptance, or is otherwise not available or obscured to the point of rendering inspection of the work difficult, shall be considered to be not acceptable to the Board. Such subsequent work shall be removed as directed by the Board or its Agent to ensure availability of the work to be inspected as required herein.

Inspections may also include the taking of certain samples for laboratory analysis or testing. In such cases, the applicant shall ensure that the Board or its Agent is in no way hindered or obstructed in the course of obtaining such samples. Where such samples are removed from the completed work, the applicant shall replace and restore such work, to the satisfaction of the Board or its Agent, to its condition prior to the taking of the sample.

## **3. Notification of the Engineer**

The Planning Board shall be notified at least forty-eight (48) hours before the completion of each of the stages listed below in the following subsection *4. Required Inspections* in order that it may arrange for proper inspection and approval of the work done. The Planning Board or its Agent must approve each stage before work on the subsequent stage can be started.

In the event the Board or its Agent makes an inspection of the work at the time designated and finds that such work is not at the proper stage of completion or that the work has been covered or otherwise obscured, the Board or its Agent shall notify the applicant as to the additional steps the applicant shall take to complete the work to the point required, or to the extent that the work shall be uncovered or exposed to full view. The applicant shall notify the Board or its Agent

again when the work is ready as prescribed above.

The applicant shall be liable for all costs and fees incurred by the Board as a result of requests by the applicant for an inspection of the work which, in the opinion of the Board, was not at an acceptable stage of completion for such inspection.

To defray the cost of each re-inspection of the same improvement caused by the failure of such improvement to meet the applicable specifications, the developer shall at the time of each request for each subsequent inspection, pay the Town of Nantucket the full amount reasonably necessary to cover the costs of such re-inspections.

#### **4. Required Inspections**

An inspection will be made of all work required as a condition for approval of a Special Permit for a Major Commercial Development. The applicant shall meet with the Planning Board prior to construction to arrange a schedule for inspection of the required improvements.

Excerpts from the  
*Nantucket Code*

**§139-11. Major Commercial Development MCD.**

- A. Every commercial use which constitutes a major commercial development, as defined in Section B below, shall require the grant of a special permit by the Planning Board under this §139-11:
- (1) Notwithstanding the fact that such use or uses may be listed elsewhere in this Zoning Bylaw as a permitted use or a use by exception requiring a special permit; and
  - (2) Whether or not it is located in a commercial zoning district (RC, RC-2 or LC); for example, if it is a pre-existing nonconforming commercial use in a residential district and, pursuant to §139-33A and §139-IIC below, has or will become a major commercial development.
- B. A “major commercial development” (or “MCD”) shall be defined as a single commercial structure or use, or a group of commercial structures or uses, which is proposed to be constructed on a single lot or tract of land or on contiguous tracts of land and held in common ownership or control, meeting, in the aggregate, any one or more of the following criteria:
- (1) *[Amended 5-5-1992 ATM, Art. 36, AG approval 8-3-1992]* Five thousand (5,000) square feet of commercial use, including, but not limited to the total of the following:
    - (a) Gross floor area of interior commercial use, including roofed-over storage areas;
    - (b) Outdoor commercial use, including but not limited to sand, gravel or topsoil borrow operations and asphalt plants; land used commercially for recreation; and land used for the exterior storage or display of merchandise, equipment or material.
  - (2) Four thousand (4,000) square feet or more of gross floor area of commercial use, including roofed-over storage areas.
  - (3) Twenty (20) or more off-street parking spaces as required by §139-18, whether or not provided.
  - (4) Auditorium, theater or place of public assembly use with a rated legal occupancy of one hundred (100) or more persons.
  - (5) Restaurant, club and/or bar use which, taken together, have a rated legal occupancy of one hundred (100) or more.
  - (6) Developments which generate an estimated ten thousand (10,000) gallons per day of wastewater.
  - (7) Marinas, wharves and piers containing two hundred fifty (250) lineal feet or more of tie-up space for vessels.
  - (8) Transient residential facilities with ten (10) or more guest rooms or units.

- C.** Pre-existing and nonconforming uses under this §139-11 shall be subject to the requirement of a special permit hereunder only on and after the point in time when any extended or altered portion of the commercial uses, added together starting from the effective date (4/4/79 or subsequently for amendments) of the applicable provisions of this §139-11, meets or exceeds the criteria of Section B above which define a major commercial development.
- D.** The Planning Board shall be the sole special permit granting authority for major commercial developments.
- (1) In instances where all or a portion of a major commercial development, in addition to requiring a special permit as a major commercial development, also requires a special permit pursuant to any provisions of this Zoning Bylaw other than this §139-11, the Planning Board shall serve as the special permit granting authority for such relief, which relief may be a matter for consideration concurrent with its review of the major commercial development application.
  - (2) Any relief associated with a major commercial development requiring a variance shall remain solely within the power of the Board of Appeals.
  - (3) An application to the Planning Board for a special permit for a major development shall be in accordance with submission requirements adopted by the Planning Board, as amended. The Planning Board shall adopt design guidelines for major commercial developments, a copy of which shall be filed with the office of the Town Clerk.
  - (4) The Planning Board shall require that plans for major commercial developments be consistent with its design guidelines adopted pursuant to Subsection (3) above; provided, however, waivers from strict compliance with the design guidelines, may be granted when a finding is made by the Planning Board that it is in the public interest to do so.
  - (5) Prior to submitting an application for a major commercial development and prior to incurring significant design expenses, the applicant is strongly urged to meet with the Planning Board's professional staff at a pre-application conference and site visit to discuss the Planning Board's procedural requirements, to review the Board's design guidelines with respect to the proposed project, and to identify any issues of concern at the staff level prior to formal review by the Board in the public hearing process.
  - (6) Depending on the size and complexity of the project, the pre-application conference may also be attended by other staff-level personnel representing other town boards in order to coordinate and expedite the review and approval process.
- E.** Land owned by the Town of Nantucket (including any of its agencies) shall not be exempt from major commercial development requirements for commercial uses or managed by structures which are operated, maintained others under leases or other right-to-use agreements with the Town.

**F. Conditions.** The Planning Board shall have the right, in granting special permit for major commercial developments, to impose conditions, safeguards and limitations including but not limited to:

- (1) Require the implementation of a landscaping and planting plan, including the location and size of trees and shrubs by species and the location and type of fencing.
- (2) Require structures, access streets and interior way open to the public, parking and loading facilities, outdoor recreational facilities, and utilities to be laid out in a manner which is safe, consistent with sound planning practice and which preserves the integrity of adjacent uses and neighborhoods, including the requirement that open areas be placed as suitable buffers to conflicting adjacent uses and structures.
- (3) Control exterior lighting of grounds, parking areas and buildings.
- (4) Require the installation of underground utilities.
- (5) Require public sewer and water facilities, if necessary, and require appropriate storm drainage facilities.
- (6) The preservation of certain natural features, including but not limited to ponds, wetlands, dunes and beaches.
- (7) Specify the type of surfacing and curbing for access ways, driveways, parking areas, sidewalks and bicycle paths.
- (8) Specify the type, size and location of all exterior signs.

**G. Open area for major commercial developments.**

- (1) A lot or tract of land containing a commercial building, structure or use shall have a minimum of thirty (30%) of the land as open area free from impervious surfaces.
- (2) Impervious surfaces here include, but are not limited to, paved and graveled areas, walkways and sidewalks, patios, decking, game courts, pools, buildings and other structures, and areas designated for parking or loading; provided however, that in computing the percentage of open area, brick sidewalks may be counted as open area up to a maximum of ten percent (10%) of the lot or site.

**H.** Any expansion or reconstruction of, or any changes to, a major commercial development for which a special permit has been granted shall require its modification or issuance of a new special permit by the Planning Board subject to the procedural and substantive requirements of §139-11 and §139-30. However, the Planning Board may, by majority vote, waive the requirements for such modified or new special permit when it finds that the expansion, reconstruction or change proposed does not materially affect the findings and conclusions upon which the Planning Board's previous decision to approve the development was based.

**I. Setbacks.** The Planning Board may specify, as part of its decision to grant a special permit under this §139-11, that a reduction of up to one hundred percent (100%) in the side and rear lot line setback requirement be permitted, provided that the Planning Board finds that such a

reduction will preserve the integrity of adjacent uses and the neighborhood and will promote the purposes and intent of the Zoning Bylaw.

**J.** *[Amended 11-13-1990 STM, Art. 18, AG approval 3-19-1991]* In order to further the availability of housing for persons and households of all income levels, to encourage the most appropriate use of land throughout the Town of Nantucket, to preserve and increase the amenities in the Town of Nantucket, to avoid undue concentration of population, and mitigate the impacts of major commercial developments on the supply and cost of housing in a town with unique and special qualities, the Planning Board may, as a condition of granting a permit for a major commercial development (MCD), require applicants to provide inclusionary housing in accordance with the following standards:

- (1) The Planning Board may require the provision of up to one (1) inclusionary unit for each four thousand (4,000) feet of gross floor area of interior commercial use or one (1) inclusionary unit per major commercial development, whichever is greater.
- (2) The inclusionary units shall be located on the MCD site unless the Planning Board determines that the public benefits to be gained by providing the inclusionary units off-site outweigh those to be gained from providing them on-site location. Inclusionary units located off-site must comply in all respects with the zoning in effect for the off-site area.
- (3) The Planning Board may require or allow employer dormitories to be substituted for all or part of the inclusionary unit requirement set forth in §139-11J(.1) above, provided that a finding is made by the Planning Board that the public benefits to be gained by the substitution outweigh possible detriments and that such substitution occurs at a rate not to exceed one (1) inclusionary unit for each six (6) persons of rated occupancy of employer dormitory use.
- (4) In lieu of providing inclusionary units or employer dormitories as outlined in Subsections (1) to (3), above, an applicant may provide a monetary contribution of equivalent value to the Town of Nantucket, to be placed in a fund for the development of affordable housing administered by the Nantucket Housing Authority or such other housing fund as may be designated by the Planning Board. The amount of such contribution shall be agreed upon between the Planning Board and the applicant, and shall be equivalent to the average sale price of non-exempt residential property with 5,000-10,000 square foot lot sizes in the RC-2 district as recorded by the Nantucket Islands Land Bank during the one year period prior to approval of the special permit. This payment may be used only for the planning, development and administration and maintenance of affordable housing outside the limits of the Major Commercial Development. *[Added 5-5-1992 ATM, Art. 47, AG approval 8-3- 1992]*
- (5) Where the inclusionary units are provided on the MCD site, the Planning Board may allow a bonus permitting the approval of multiple inclusionary units to be located on one (1) lot, provided that the total number of inclusionary units located on the lot does not exceed the total number of units otherwise allowed by zoning on the lot and the units comply with the Planning Board's MCD guidelines, as amended from time to time.
- (6) Where the inclusionary units are provided on the MCD site, the Planning Board may



allow a bonus permitting an increase in the number of units that may be permitted within a single structure beyond that which is permitted in the zoning district where the units are located, provided that no more than eight (8) units may be permitted within any one (1) structure and the units comply with the Planning Board's MCD design guidelines, as amended from time to time.

- (7) Inclusionary, units shall be subject to a deed restriction, enforceable by the Planning Board or its designee, to be in effect during the thirty-year period which commences from the date of the initial sale or the date of the first certificate of occupancy, whichever is earlier, which shall include a resale restriction requiring that any increase in the selling price of the inclusionary unit not exceed the initial sale price of the unit plus the cost of capital improvements, each adjusted to reflect changes in the CPI, but in no event shall the resale price exceed the owner's purchase price plus five percent (5%) per annum compounded annually; shall include an option to purchase the inclusionary units created pursuant to this section; and may include a right of first refusal.
- (8) The inclusionary units shall be subject to use restrictions limiting occupancy of said units to eligible households. The Planning Board or its designee shall establish regulations governing eligible households and inclusionary units as defined in this bylaw, including tenant and buyer eligibility and selection, occupancy limitations, lease agreements and such other occupancy requirements as may be permitted by law.  
*[Amended 5-5-1992 ATM, Art. 47, AG approval 8-3-1992]*
- (9) The requirements contained in this section, and the rules and regulations and design guidelines promulgated pursuant thereto, shall be subject to review by the Planning Board every five (5) years from the effective date of this section. Such review shall take into account the supply of inclusionary housing, the rental vacancy rate, and the overall condition and strength of the housing market.
- (10) No building permit shall be issued for an MCD unless the Planning Board has certified that the applicant has provided legal assurances that the obligations under this section will be satisfied. No certificate of occupancy will be issued for an MCD unless the required inclusionary units are also eligible for such certificate, or unless the Planning Board has approved a schedule linking a portion of the required inclusionary units to specified portions of the overall MCD, allowing phases of the MCD to become eligible for certificates of occupancy as the inclusionary units become eligible for such certificates.

## Appendix



## Application to the Planning Board for a Special Permit

Date: \_\_\_\_\_

Name of development: \_\_\_\_\_

Owner(s) name(s): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Applicant's name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Engineer / surveyor's name: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Location of lot(s):

● Street address \_\_\_\_\_

● Tax Assessors Map \_\_\_\_\_ Parcel \_\_\_\_\_

● Nantucket Registry of Deed: Plan Book \_\_\_\_\_ and Page \_\_\_\_\_ **OR**

Plan File # \_\_\_\_\_ **OR** Land Court Plan # \_\_\_\_\_ at Certificate # \_\_\_\_\_

Size of parcel: \_\_\_\_\_ sq. ft. Zoning District: \_\_\_\_\_

Special Permit sought: (check one)

- ☐ Cluster subdivision
- ☐ Commercial WECS
- ☐ Curb Cut Special Permit
- ☐ Major commercial development (MCD)
- ☐ Moorlands Management District subdivision or construction (MMD)
- ☐ Use requiring Special Permit (specify all uses and *Nantucket Code* sections)

Section

Description

_____	_____
_____	_____
_____	_____

MCD, MMD and WECS applications require a major site plan review per §139-23D of the *Nantucket Code*.

Specify all associated Zoning Code relief sought:

Section	Description

*Only the zoning relief expressly requested above will be considered as part of this application.*

Specify how the application will comply with Section 139-11 (J) of the *Zoning Code of the Town of Nantucket*, also known as the Town's Affordable Housing Effort:

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Planning Board filing fee due: \$\_\_\_\_\_

Engineering Inspection Escrow Deposit due: \$\_\_\_\_\_

I/ we hereby certify that the applicant(s) cited above have been authorized by me/ us to file a Special Permit application with the Planning Board on property that I/ we own.

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Owner(s)' Signature(s)

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Applicant's Signature

I/we \_\_\_\_\_, the undersigned, hereby authorize  
\_\_\_\_\_ to act as agent(s) on my/our behalf  
and to make any necessary revisions on this filed application as they may be requested by the Board to  
meet its governing rules and guidelines.

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Owner(s)' signature(s)

*This application must be accompanied by the requisite submission materials in order to be considered valid and complete. Submission requirements are available at the Planning Board office. A copy of the application shall be filed by the applicant with the Town Clerk and the Building Commissioner.*



## Application for an Amendment to a Previously Granted Special Permit

Name of Development: \_\_\_\_\_

Planning Board File No.: \_\_\_\_\_

Owner(s)' Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Engineer/Surveyor: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Location of Lots:

Street Address: \_\_\_\_\_

**Tax Assessor's Map:** \_\_\_\_\_ **Parcel:** \_\_\_\_\_

Nantucket County Registry of Deeds:

Land Court Plan \_\_\_\_\_ **or** Plan Book \_\_\_\_\_ Page \_\_\_\_\_

**or** Plan File #: \_\_\_\_\_

Size of Parcel \_\_\_\_\_ square feet.

Zoning District \_\_\_\_\_

Describe proposed modification in detail:

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I/we hereby certify that the applicant cited above have been authorized by me/us to file a Special Permit application with the Nantucket Planning Board on property that I/we own.

Owner(s)' Signature(s):

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Applicant's Signature:

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I/we \_\_\_\_\_, the undersigned, hereby authorize \_\_\_\_\_ to act as agent(s) on my/our behalf and to make any necessary revision on this filed application as may be requested by the Board to meet its governing rules and guidelines.

Owner(s)' Signature(s):

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This application must be accompanied by a filing fee of \$150.00 and sufficient materials (e.g. site plan, site use calculations, etc.) as necessary to permit the Planning Board to evaluate the proposal.

The Planning Board, pursuant to Section 139-9.B.4(e) of the *Nantucket Zoning Bylaw*, may act to deem the proposal a modification which requires a new public hearing and Special Permit. Filing fees in this case would be credited against the filing fees required for a Special Permit application, and the submission would have to be revised to conform to the application requirements of the Town's *Requirements and Guidelines for Major Commercial Developments*.



**Commonwealth of Massachusetts  
Town of Nantucket Planning Board**

**Certificate of Having Granted a Special Permit**

Date: \_\_\_\_\_

The Planning Board of the Town of Nantucket hereby certifies that a Special Permit has been granted to

\_\_\_\_\_

whose address is \_\_\_\_\_

affecting the rights of the owner with respect to land or buildings at:

\_\_\_\_\_  
\_\_\_\_\_

The Planning Board of the Town of Nantucket further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special permit, and that copies of said decision have been filed with the office of Nantucket Town Clerk and the Nantucket Building Commission.

*Massachusetts General Laws*, Chapter 40A, Section 11, provides that no Special Permit, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision has been recorded in the Nantucket County Registry of Deeds and is (1) indexed in its grantor index under the name of the owner of record or (2) noted on the owner's certificate of title.

This decision must bear the certification of the Nantucket Town Clerk that twenty days have elapsed since the decision has been filed in its office and that no appeal has been filed or that, if such appeal has been filed, it has been dismissed or denied. The fee for recording/registering shall be paid by the owner or applicant.

\_\_\_\_\_  
Chairman